

Review Group on
Investment based Naturalisation

Report

April 2000

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REVIEW GROUP ON INVESTMENT-BASED NATURALISATION

REPORT

EXECUTIVE SUMMARY

On 20 April 1998, the Government abolished the investment-based naturalisation scheme. In deciding to do so, they also decided that the Minister should initiate a review of the Irish Nationality and Citizenship Act to see how it might facilitate investment and, if in the course of that review information emerged that would warrant additional legislative measures, he should consider this.

To assist him in conducting the review, the Minister established the Review Group, comprising representatives of his Department (which chaired the Group) the Departments of Finance, Enterprise, Trade and Employment and Foreign Affairs, Enterprise Ireland and IDA Ireland together with two outside experts.

The Group's conclusion is that, given the present growth of the Irish economy, the consequent sharp reduction in unemployment and the improvement in the availability of venture capital, it is inappropriate and unnecessary to introduce an investment-based scheme at present. A majority believe that the Government should keep open the option of introducing such a scheme, on a statutory basis and on the lines of the rules set out in the Report, in the event of a changed economic or employment situation while a minority are opposed to investment-based naturalisation in principle.

Operation of the Investment-Based Scheme which commenced in 1989.

In April 1989, the first naturalisations on the basis of investment were approved by the Government. It was also decided that future applications for anybody who was prepared to invest in the State should be approved.

A Statement of Intent, which set out the residency and other requirements, was introduced around this time. No minimum figure was mentioned but investments in the order of £500,000 appeared to have been the norm. The applicant had to have acquired a residence in the State and to have spent a minimum of 60 days here over the previous two years. While the intention early on was to attract investment into the manufacturing sector, investments in the forestry and shipping sectors, as well as some property, were approved during the early 1990's.

During the period 1989 to 1994, 66 investors, as well as 39 spouses and minor children of the investors, were approved for naturalisation. Evidence of compliance with the provisions of the Statement of Intent is absent in many cases.

Arising out of the view that there should be a more formal and transparent approach to the operation of an investment based naturalisation scheme, Terms of Reference of an Advisory Group, set up to advise the Minister on investment cases, were drawn up and these became the basis for the consideration of proposals from late 1994 on. Key features of the Terms of Reference were that the investor should purchase a residence in Ireland and retain it for at least five years, residing here for at least 60 days in the two years following naturalisation. The investment should involve a net contribution of at least £1 million for a period of at least five years and, in the case of a loan, seven years. Compliance with the Terms of Reference on the part of those naturalised under the scheme appears to have been satisfactory.

In the period 1994 to date, 40 investors, as well as 24 spouses and children were naturalised. 169 persons, including 63 spouses and minor children of investors have been naturalised under the scheme since its inception in 1989 and investments of over £100m have been made.

On 4 September 1996, the Government decided that no new applications would be accepted pending the introduction of specific legislation, although the processing of existing applications would continue. The then Government decided in May and June 1997 to make some exceptions to this decision in that they decided that certain other applications should be processed and that certain firms should be substituted for the firms which were originally associated with particular applications.

Assessment of the impact of the investment-based scheme

Enterprise Ireland carried out a review of the impact of the scheme on the companies which lie within its client list. In the period prior to 1994, it appears that, in a significant number of cases, approximately 80% of the proposed investment was lodged in a bank account at an agreed rate for a 5 year period. This accumulated with interest to the original full amount after 5 years and was returned to the investor. The remaining 20 % was made available to the company. Although not all of the investment was available to the companies, the interest rate was significantly below commercial rates and this helped to sustain these companies through difficult times.

From 1994 on, it appears that the criteria set out in the terms of reference were generally complied with and the companies received the benefit of the full £1 million investment.

Approved investment under the scheme in the firms examined by Enterprise Ireland totalled £67.6 million, of which £54.5 million was actually made available to the companies. The companies have indicated that the jobs saved or maintained amount to 1,542. Given that this is but a sample of the firms assisted, it can be concluded that the scheme had a significant impact on employment often in a context in which a high premium was placed on preserving jobs.

Public debate on the scheme

The scheme has attracted significant comment, usually negative, in the Oireachtas and in the media throughout its history in relation to individual cases and the whole idea of investment-based naturalisation.

The contrast between the allegedly unwelcoming attitude of the State to refugees, asylum seekers and immigrants and its willingness to confer citizenship on wealthy persons who do not wish to reside in Ireland has been highlighted.

Reports have appeared in the media about individuals said to have been naturalised under the scheme and about the operation of the scheme itself.

Arguments for and against an investment-based naturalisation scheme

Arguments that have been advanced in support of the scheme have been

- the potential to harness significant sums for investment in Irish firm
- the rescue of companies in difficulty
- benefits of increased economic activity
- the potential to develop further the relationship between investor and company
 - while there is an economic boom at the present, this may not always be so and such a scheme could prove valuable in the future.
 - investment-based naturalisation is commonplace on the international stage, although many countries do not have a published programme but negotiate with applicants on a special case by case basis.

Arguments that have been advanced against the scheme have been

- such a scheme demeans our citizenship which should be confined to those with links to or a genuine identification with the Irish nation.
- the scheme could make us vulnerable to criticism from our EU partners.

- it is difficult for the Minister to satisfy himself as to the character of applicants.
- significant benefits accrue to the investors and it represents a questionable bargain to the State, even after taking account of the economic benefits.
- our approach to wealthy persons contrasts with what critics maintain is our restrictive approach to immigration of poor people.
- the question of tax incentives or direct State assistance should be considered to deal with the problems which investment-based naturalisation would be used to solve.

Suggested framework and rules

The main provisions of the suggested framework and rules put forward by the Group are as follows:

- an applicant must have a net worth of £5m.
 - must have held an approved investment for at least 2 years prior to his/her application
 - must have purchased a substantial residence in the State and undertaken to retain it in ownership for at least five years after naturalisation
 - must undertake to reside in the State for a minimum of 100 days in the two years following naturalisation.
 - must undertake to retain the ownership of the investment for at least five years after naturalisation.
- the investment must involve a subscription of at least £1m net for ordinary or noncumulative preference shares and a non-refundable contribution of £0.25m to an Irish university or other third level or national research institution.
- police certificates of character, as required, must be provided.
- the Minister shall make whatever enquiries s/he deems necessary to establish that the funds are not derived from criminal activity.
- a standing committee, representative of the Departments of Enterprise, Trade and Employment, Finance and Justice, Equality and Law Reform, Enterprise Ireland and IDA Ireland with an independent chairperson will consider what specific firms should be recipients of investments. This committee will be serviced by a unit of the Department of Enterprise, Trade and Employment under the

supervision of an Assistant Secretary and this unit will also be responsible for marketing the scheme, compliance, control and monitoring the operation of the scheme.

- the fact that an application has been made under the scheme will be treated as confidential by the Minister.

Assessment of the question of reintroducing an investment based naturalisation scheme

The Group is satisfied that the investment-based scheme which operated from 1989 and was abolished in 1998 created and preserved jobs on a scale which, while small in relation to overall State support in this regard, is nonetheless significant.

However, as stated above, it is the view of the Group that it is inappropriate and unnecessary to introduce an investment-based scheme in present economic circumstances. A majority believe that the Government should keep open the option of introducing such a scheme, on a statutory basis and on the lines of the rules set out in the Report, in the event of a changed economic or employment situation while a minority are opposed to investment-based naturalisation in principle.

1. Introduction

1.1 On 20 April, 1998, the Government abolished the Investment based Naturalisation Scheme which had commenced in 1989. In doing so, they decided that the Minister for Justice, Equality and Law Reform should initiate a review of the Irish Nationality and Citizenship Act 1956 to see how it might facilitate investment and, if in the course of that review information emerged which would warrant additional legislative measures, he should consider this.

1.2 To assist him in conducting the review called for by the Government, the Minister established the Review Group on Investment-based Naturalisation comprising representatives of his own Department, which chaired the Group, the Departments of Finance, Foreign Affairs and Enterprise, Trade and Employment, Enterprise Ireland and IDA Ireland and two experts from outside the public sector, Mr Desmond Miller, Chartered Accountant, and Mr Diarmuid McGuinness, S.C..

1.3 The Group decided to invite submissions through placing an advertisement in selected print media. This appeared in the various publications on dates between 23 and 30 July, 1998. Subsequently the Group wrote to a number of institutions, such as banks, accountancy and solicitors' firms, some of the social partners and professional bodies, inviting their views. In response to these steps, the Group received a small number of submissions. While the response in terms of the number of submissions received was not large, the Group is pleased to acknowledge its debt to those who made submissions for their valuable contribution to its work.

1.4 The Group now submits this Report to the Minister in the hope that it will assist him in discharging the task given to him by Government by their decision of 20 April, 1998.

1.5 The Report begins by describing the Investment-based Naturalisation Scheme that operated from 1989 onwards and assessing the impact which that Scheme had on investment and jobs. It then proceeds to review the public debate and criticisms of the Scheme in the course of its existence. Then there is a discussion of the arguments for and against such a scheme. Next is a suggested set of rules under which any future scheme might operate. Finally, the report gives the assessment of the Group that it is inappropriate (and unnecessary) to reintroduce an investment based scheme at the present time. A majority of the Group believe that the Government should retain the option, in the event of a changed economic or employment situation, of introducing an investment-based naturalisation scheme on a statutory basis and on the lines set out in this report. The dissenting view of some Group members is also recorded

2. Operation of the Investment based Naturalisation Scheme commenced in 1989.

2.1 The Scheme was intended to assist the then IDA in attracting inward investment especially in manufacturing industry. The introduction of such a scheme had been advocated by Ministers for Industry and Commerce throughout the 1980's but opposed by successive Ministers for Justice on policy grounds.

2.2 In April 1989, the then Minister decided to seek Government approval in relation to a particular proposal which involved a large number of individual citizenship applications. The Government decided that the applications should be approved and, furthermore, so should future applications from anybody who was prepared to invest in the State.

2.3 Around this time, a Statement of Intent (Appendix A) was made available to persons who enquired about naturalisation linked to investment. This Statement indicated that the Minister would accept as fulfilling the requirements of "Irish associations" in section 16(a) of the Irish Nationality and Citizenship Act 1956, and would waive the residence condition at section 15(c) of the Act, applications in respect of which

(a) the applicant acquired a residence in the State, had been resident in the State for two years and had spent a reasonable amount of time here over the two years,

(b) the Minister was satisfied, on the advice of a Minister of the Government, that the applicant had established a manufacturing or international services or other acceptable wealth and job creating project here that was viable and involved a substantial investment by the applicant, and

(c) all other requirements of the Act had been complied with. (Copies of sections 15 and 16 of the Act are attached as Appendix B).

2.4 The Statement further indicated that "residence" involved the establishment here of a residence consistent with the circumstances of the applicant and any of his family allowed to reside here by law and in which he had his home and "a reasonable amount of time here over

the two years" meant a minimum of 60 days. The project in which the investment took place would have to be one resulting from the applicant's investment which would not otherwise have occurred. The application could include a spouse and children under 18 years of age of the investor.

2.5 Over the period 1988 to 1994, the range of investments made under the Scheme, which were usually £500,000 each, widened from industrial development (which appears to have been envisaged during the early days of the Scheme) to include, for example, some property and forestry development and the shipping sector. A key development in this context was a Government decision of March, 1992 that "Irish associations" should be interpreted liberally so as not to confine the requirement to investment in industry: tourism related projects, but not property, should also be included. In the period 1988 to 1994, 66 investors (plus 39 spouses and children) were naturalised. It would appear that there was a significant number of cases in which the requirements of the Statement of Intent either were not adhered to or where evidence that they were adhered to is absent from the Department's files. The following table shows the information available on the files of the Department - an entry in the "NO" column does not necessarily imply that the requirement in question was definitely not complied with, rather that the evidence that it was complied with is absent.

	YES	NO
60 days residence in the State prior to application	10	56
Commitment to reside in the State after naturalisation	17	49
Purchase of residence in the State	55	11
Evidence of good character	17	49
Declaration of loyalty and fidelity to the State	56	10
Was receipt of investment certified or confirmed	49	17

2.6 In replying to Dail Questions on 15 June, 1994, the Minister for Justice, Deputy Geoghegan-Quinn, in announcing the intention to change the Scheme, said of the Scheme as it had operated up to then:

Nobody could deny with the benefit of hindsight....that the informality of the scheme, while in one way an asset, was, in other ways, a feature which left it wide open to criticism. The strength of the scheme's informality was that it enabled favourable decisions to be made quite quickly in cases where there appeared to be a reasonable prospect of getting investment into the country and thereby creating or maintaining jobs. It is

fair to say, however, that in judging whether a particular investment proposal had a reasonable prospect of coming to fruition and producing or saving jobs, Ministers tended to exercise discretion in favour of the investor without, as a matter of routine, insisting on all the certainties that might well be required if a more formal arrangement was in place.

2.7 Arising out of the view that there should be a more formal and transparent approach to investment based naturalisation, new guidelines were introduced in 1994, which took the form of Terms of Reference of an Advisory Group on Investment linked Naturalisation. These guidelines are attached at Appendix C.

2.8 The Terms of Reference provided that the Group which was chaired by the Department of Justice, Equality and Law Reform and had representation from the Departments of Finance and Enterprise, Trade and Employment and Enterprise Ireland - present-day titles of these bodies are used - should consider applications for naturalisation based on investment in the State received by the Minister and referred to the Group and make recommendations to the Minister based on the Group's assessment of the job-creating or job-maintenance capacity of the investment. The Group was concerned with the investment proposal as such rather than with the investor and his/her suitability for naturalisation.

2.9 The Group was to examine each application for naturalisation based on investment, with the assistance of evaluation/advice from relevant agencies where necessary and, in making their recommendations, to apply the following criteria:-

- (a) a substantial residence should be purchased and retained in ownership for a period of at least five years with an undertaking to reside in the State for a minimum of 60 days in the two years following naturalisation;
- (b) the level of investment should involve a net contribution of at least £1 million per applicant;
- (c) where the investment was in the form of a loan it should be for a duration of at least seven years at an interest rate not greater than whichever was the lower of the representative Government bond yield on the secondary market or the Dublin Interbank Offer Rate, less one percentage point in each case. The loan should be made by the applicant direct to the firm concerned, without involvement by any intermediary. The loan arrangement should be transparent and open to scrutiny and be such as to prevent the loan being factored or sold on. The loan should not be secured by the assets of the company in which the investment was to be made;

- (d) as ordinarily naturalisation would be for life, the duration of the investment should be for a significant period, at the very least five years;
- (e) the number of jobs created or maintained should be readily quantifiable and arise from the investment only;
- (f) audited and certified confirmation of the investment should be available to the Group from an established auditing firm of accountants to the effect that the investment had taken place in accordance with the rules of the Scheme;
- (g) the investment should be monitored by Forfás to ensure that the conditions of the investment were maintained and, in the event that they were not, the Group should be informed and they would, in turn, inform the Minister with a view to revocation of citizenship;
- (h) a police certificate of character should be provided by authorities in the country of origin (and, if required, from the police in any country where the applicant had resided or carried on business or maintained substantial investments) together with express permission to the authorities in Ireland to enquire behind it; and
- (i) there should be annual certification by an established auditing firm of accountants to Forfás that the investment was being maintained for the appropriate period.

2.10 The Department of Justice, Equality and Law Reform has indicated to the Group that the conditions in the Terms of Reference seem to have been generally complied with during the period in which they were in force although it is not practicable to verify with certainty that undertakings to reside in the State after naturalisation have been acted upon in all cases. Enterprise Ireland monitored investments made under the scheme in recent times in its client companies and, where possible, kept in touch with other client companies which had been the subject of an investment in earlier times.

2.11 While there appears to have been a greater degree of compliance with the stated conditions of the Scheme in the period from 1994 on than there was before then, it should be observed that the Statement of Intent, which operated pre-1994, was stricter than the subsequent Terms of Reference in that the former only involved the waiving of one of the conditions of naturalisation, that is the five years residence condition at section 15(1)(c) of the Irish Nationality and Citizenship Act 1956. The investor was still required to fulfil the

condition at section 15(1)(d) requiring him or her to intend in good faith to continue to reside in the State after naturalisation. In contrast, the post-1994 scheme as set out in the Terms of Reference only required the investor to undertake to reside in the State for a minimum of 60 days in the two years following naturalisation. In this way, it reduced the residency element in the scheme as well as making it easier for investors to comply. In the period 1994 to date, 40 investors were naturalised following consideration of their cases under the Terms of Reference. 24 spouses and children of these investors were also naturalised. The following table shows the level of compliance with the requirements of the Terms of Reference:

	YES	NO
Audited confirmation of investment of £1m supplied	40	-
Police certificate of character supplied	38	2**
Purchase of residence in State	40	-
Commitment to reside in the State for 60 days	40	-
Declaration of loyalty and fidelity to State	40	-

** Applications were received in 1993, prior to the formulation of the Terms of Reference.

2.12 On 4 September 1996 the Government decided that no new applications should be accepted pending the introduction of specific legislation, while processing of existing applications could continue. On 11 March 1997, the Government decided that 19 cases on hand at 4 September 1996 were to be regarded as cases where commitments had been made while 50 other cases were to be left over until legislation was in place. The Government made some exceptions to this in subsequent decisions in that they decided that certain other applications should be processed and that certain firms should be substituted for the firms which were originally associated with particular applications.

2.13 On 2 September, 1997, the Government, which had changed since the aforementioned decisions, decided that the Minister for Justice, Equality and Law Reform should carry out a review of the Scheme and, following consideration of that review, the Government abolished the Scheme on 20 April, 1998, with outstanding applications to be processed to finality. In this context, outstanding applications were understood to mean applications in the statutory form accompanied by a business plan. If the business plan was changed by, for example, the substitution of one company for another, this would constitute a new application. The Government decided, on 20 May, 1998, that this approach should be changed and that the

Minister should process to finality any outstanding application which was made in statutory form before 4 September, 1996 even if the business plan had been changed through the substitution of a new firm for the original one. The Department of Justice, Equality and Law Reform justify this decision on the basis that it was reasonable to allow an applicant to pursue his or her application to finality even if the intended recipient of the investment had changed (and, of course, a substitute investment opportunity had been identified) as this could happen totally outside the control of the investor through, for example, the proposed recipient company no longer needing the investment for one reason or another.

2.14 Overall, 169 persons (63 of whom are spouses and minor children of investors) have been naturalised on foot of the Scheme, with investments of over £100 million having been made. At the time of writing, there are still five applications from potential investors yet to be finalised.

3. Assessment of the Impact of the Investment based Naturalisation Scheme

3.1 With the help of Enterprise Ireland, the Group looked at the experience of firms assisted under the now abolished investment-based scheme in order to assess its impact. This is only a sample of the total number of firms which received investment under the scheme as other firms were outside the aegis of Enterprise Ireland and

IDA. However, it is a significant sample accounting for approved investment of over £67m out of a total of £101m for the entire scheme.

3.2 Based on a list provided by the Department of Justice, Equality and Law Reform, Enterprise Ireland carried out, as requested, an informal review of the impact of the scheme. This involved an Enterprise Ireland executive contacting, by telephone, the relevant companies, either directly, or through their Enterprise Ireland or IDA Project Officer and requesting the information required for the review. The information was also checked against the Forfas Employment Survey.

3.3 A total of 38 companies were examined. Of these, 17 companies had been approved pre 1994 and the remaining 21 post 1994.

Overall impact of the scheme

Total investment approved in the 38 companies
£67.6m.

Amount available for use by the company
£54.5m.*

Employment at date of investment
2,556

Current employment 2,515

Estimated jobs saved or maintained
1,542

* The divergence between this amount and the total investment approved in the 38 companies is explained in paragraph 3.5 below.

3.4 The figure for jobs saved or maintained is arrived at following discussions between Enterprise Ireland or IDA Ireland and the companies. Generally speaking, the jobs must have been maintained for a period of at least five years after the investment.

3.5 During the period between 1989 and 1994 - that is prior to the establishment of the Advisory Group and the involvement of Enterprise Ireland, the IDA and their predecessor agencies - in a significant number of cases, the full investment was not made available to the receiving companies. For this reason, the total amount available for use by the companies falls short of the approved

investment. A discussion with the relevant companies suggests that, in these cases, approximately 80% of the proposed investment was lodged in a bank account at an agreed rate for a five year period. This accumulated with interest to the original full amount after five years and was returned to the investor. While not all of the proposed investment was available to the companies, a number of the recipients pointed out to Enterprise Ireland that the interest rate on loans was low relative to the high rates pertaining (3% - 9%) at the time and helped, therefore, to sustain these companies in difficult times.

3.6 In a number of other cases, guarantees were sought for the loans and, in one case, Enterprise Ireland was informed that, although the company failed, the promoters were required to repay as personal guarantees had been provided.

3.7 The criteria introduced on the establishment of the Advisory Group in 1994 appear, on the basis of contact with the companies, to have been substantially complied with during the subsequent period.

3.8 Bearing in mind that the Enterprise Ireland review covered only a sample of the firms assisted, the scheme can be viewed as having a positive impact at a time when a high premium was placed on preserving jobs, when interest rates were substantially higher than their current levels and economic conditions generally much less favourable than at present.

4. PUBLIC DEBATE ON THE SCHEME.

4.1 The scheme has attracted significant comment in the Oireachtas and in the media throughout its history with particular controversies arising from time to time and leading to debate about the whole idea of investment based naturalisation.

4.2 The scheme has been criticised as representing a contrast between the allegedly unwelcoming attitude of the State to refugees, asylum seekers and immigrants and its willingness to confer citizenship on persons who do not wish to reside in Ireland at all or to become part of our community but who are people of means and are prepared to invest in an Irish business. This view has been articulated from time to time in the Oireachtas. Members were concerned about what they saw as citizenship for sale at a price. The Minister was urged to adopt a uniform system of dealing with all applications for citizenship, irrespective of whether they come from a penniless migrant or a wealthy investor.

4.3 While the debate on the scheme and its representation both in the Oireachtas and in the media has been negative, the Department of Justice, Equality and Law Reform informs the Group that there have been frequent representations from individual public representatives in favour of particular applications under the scheme often because they would result in investments in their own constituency.

4.4 As stated above, much of the comment on the scheme was prompted by individual controversies that arose about persons alleged to have been naturalised under it. Examples were the cases of Mahfouz, Masri and Kozeny, which attracted substantial media interest.

4.5 Magill magazine, in an article in its March, 1999 issue, alleged that no investment at all took place in some cases. Rather, a fee, which was substantially less than the reported investment, was paid to the Irish company in return for the use of its name to secure naturalisation under the scheme.

4.6 In an article of 5 June, 1994, the Sunday Tribune alleges that investments were typically in the form of a loan of £1m at 5% over five years. This amount was lodged in a bank as security and the company got to keep the difference between the interest rate that was earned on it and the 5% rate which they paid the investor. The companies thus got a benefit of between £150,000 and £170,000 over five years.

4.7 The practices referred to in paragraphs 4.5 and 4.6 are not dissimilar to that described in paragraph 3.5 above. The research carried out by Enterprise Ireland supports the view that the amounts made available to some companies were substantially less than the total approved investment but these companies were almost all in the pre-1994 period.

4.8 In an editorial on the same date in the Sunday Tribune, the opinion is expressed that there is nothing wrong with an investment based scheme in itself and other countries have found them useful vehicles for encouraging inward investment. However, the editorial continues, that, in the history of Irish public administration, this was yet another sorry example of an idea which had been imported from abroad and implemented locally without the constraints and limitations which its originators elsewhere thought fit to attach to it.

4.9 The second next section contains a suggested framework and set of rules under which any future investment based scheme might operate. A majority of the Group considers that these rules would serve to eliminate to the greatest extent foreseeable the grounds for the negative reaction to the scheme which has now been abolished and to decisions made under it apart, of course, from objections to the principle of such a scheme.

5. Arguments for and against an Investment-based Naturalisation Scheme

5.1 In setting out the arguments for and against the idea of investment-based naturalisation, the Group is merely noting them and is making no judgement on the validity of particular arguments.

5.2 Arguments which have been advanced in support of investment-based naturalisation, particularly by bodies which made submissions to the Group, include the following:

(1) Such a scheme has the potential to harness significant sums for investment in Irish based firms. Up to £50m. per annum in investment could result from such a scheme (assuming adequate resources are devoted to its administration) which has a role to play in providing capital to growth companies, particularly at the start up stage, and in making up the deficit caused by a reluctance by private financial institutions to invest in such firms because of a perception of high risk. Some growing companies encounter the problem of a shortage of working capital which is not met by private lenders or investors or by the State development agencies even though the core business is viable.

(2) Another role for such a scheme would be the rescue of companies in difficulty. Since the abolition of Foir Teoranta over ten years ago, the State has had no mechanisms to assist directly a company in financial difficulties. In this way, the scheme would fill a gap in the State support mechanisms. It would preserve employment, create savings for the Exchequer and extra tax revenue and would result in the avoidance of the cost of retraining employees to work in new industries. In addition, the preservation of such enterprises would avoid the social upheaval brought about by the loss of a significant business in a small community and the ensuing demographic shifts as people move in search of employment. As with its role

in providing finance to expanding firms, an investment-based naturalisation scheme can secure these objectives at minimal cost to the Exchequer and in situations of high risk which would deter private investors.

(3) A secondary objective of such a scheme would be the indirect benefits associated with economic activity that would not otherwise take place such as increased exports and linkages within the Irish economy.

(4) Under the old investment-based scheme and under any new scheme, the direct link between the investor and a particular company, in contrast to a system in which the investor subscribed to a general fund, could create a synergy which would be of benefit to the Irish firm in the future. This business relationship could be developed further.

(5) While the Irish economy may be experiencing a boom at present, this will not continue indefinitely and consideration of an investment-based scheme should be conducted from a long term perspective over which there will be a clear need for such a scheme when economic growth slows down or ceases.

(6) It is argued that investment based naturalisation is a common practice on the international stage. Among our international, including European, neighbours there are countries which offer residency and citizenship rights in return for investment. Whereas some countries are said to operate a coherent programme (for example Dominica and St. Christopher and Nevis), others, such as Austria, Belgium, the Czech Republic, France and Hungary, do not have any published programme but will negotiate with applicants on a special case by case basis.

5.3 Arguments which have been advanced against an investment based naturalisation scheme include the following:

(1) Such a scheme demeans our citizenship which is predicated on links to or genuine identification with the Irish nation. Nationality has been described by the International Court of Justice, in the *Nottebohm Case* (1955), as “a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties”. On this view, investment based naturalisation is not compatible with the concept of citizenship.

(2) Investment based naturalisation also has implications for EU citizenship, to which the EU is attaching increasing

importance, and it could make us vulnerable to criticism from our EU partners.

(3) Since residency is not a significant element of such a scheme, it is difficult for the Minister for Justice, Equality and Law Reform to satisfy himself as to the character of applicants and the previous scheme has been tainted by reports that people of questionable backgrounds have been naturalised under it. Indeed, in the aftermath of a Prime Time programme broadcast by RTE television on 14 October, 1998 which made allegations about the scheme, the Minister for Justice, Equality and Law Reform asked the Group to take account of the programme in its deliberations. To the extent that the State gets the reputation of conferring its nationality on persons of dubious character who have only slight links with Ireland, the protection which Irish nationality and an Irish passport gives to all citizens is correspondingly compromised.

(4) Significant benefits are conferred on investors through the acquisition of Irish citizenship in this exceptional way and it represents a questionable bargain from the standpoint of the State even after taking into account the economic benefits. Among the ways in which Irish citizenship can benefit those who acquire it are the following:

(a) Such persons, as citizens of the European Economic Area (EEA), can establish themselves and reside anywhere in that Area. In this way, an investment based scheme could be used to give a person a back door entrance to the European Union which they would find it difficult or impossible to get otherwise. This can create substantial business as well as personal advantages for the investor;

(b) Travel to non-EEA countries can also be easier on an Irish passport to the extent that Irish nationals are not visa required and nationals of the investor's country of origin are and by virtue of the fact that an Irish national might more readily be admitted to particular states than would nationals of the investor's country of origin;

(c) Investors may wish to obtain Irish citizenship because of considerable tax advantages which will accrue to them;

(d) Irish citizenship may provide them with a potential escape route from politically unstable countries of origin.

(5) Waiving the conditions for naturalisation for wealthy persons contrasts with what critics maintain is our restrictive approach to immigration of poor people to Ireland and this offends against the values of fairness and generosity.

(6) To the extent to which an investment-based scheme makes up a gap which exists in the provision of equity or venture capital from private sources, this deficiency should be filled by appropriate measures to alleviate the market failure implicit in this situation. For example, tax incentives or direct State assistance should be considered instead. A similar argument applies to the proposed role for an investment based scheme in rescuing ailing companies.

5.4 The Group notes that proponents of an investment based scheme generally accept that the scheme which was abolished in 1998 was deficient in a number of ways and that any new scheme should have additional safeguards. In the following section, the Group sets out how it envisages any possible future scheme should operate. It then goes on in the next section to assess what role an investment-based scheme could play at present and whether or not such a scheme should be reintroduced.

6. Suggested Framework and rules for an investment based naturalisation scheme

6.1 The following is a suggested model for a framework and rules for an investment based naturalisation scheme which seeks to overcome the perceived defects of the Scheme which was abolished in 1998.

(1) Where an applicant for a certificate of naturalisation

(a) has held an investment, in accordance with these rules and for a period of at least two years prior to his application, in a qualifying company operating in the State,

(b) has purchased a substantial residence in the State and undertaken to retain ownership of it for a period of at least five years after naturalisation, and

(c) has undertaken to reside in the State for a minimum of 100 days in the two years following naturalisation,

the Minister will grant a certificate to the applicant provided the naturalisation conditions, set out in section 15 of the Irish Nationality and Citizenship Act 1956 as amended in 1986, other than those relating to residency and intention to continue to reside are fulfilled.

(2) The investment must involve a subscription of at least £1 million net per applicant in ordinary or noncumulative preference shares in a company, on a panel of companies approved by the standing committee (see (7) below) as suitable recipients for investment, in a form acceptable to the Minister and a non-refundable contribution of at least £0.25 million for the benefit of an Irish university or other third level or national research institution towards research and development in the areas of science, technology and innovation. The contract between the investor and the recipient company will not provide for the creation of any sinking fund or any other guarantee in relation to the redemption of the shares.

(3) The applicant shall undertake that the investment shall remain in his/her ownership for at least five years after naturalisation unless the Minister consents, on whatever conditions he/she sees fit, to its disposal.

(4) Police certificate of character must be provided from the authorities in the applicant's country of origin and, if required, from the police in any country in which the applicant has resided or carried on business or maintained substantial investments and the Minister shall have the right to make any other enquiries he/she deems necessary to satisfy himself/herself as to the character of the applicant and family, if deemed appropriate or necessary. An applicant will have to consent to the making of any enquiries the Minister considers appropriate if his/her application is to proceed.

(5) The Minister shall, by making whatever enquiries he/she considers appropriate, satisfy himself/herself that the funds invested are not in whole or in part directly or indirectly the proceeds of any criminal activity in the State or elsewhere and he/she shall not grant a certificate of naturalisation unless satisfied of this. Again it is a condition of the application proceeding that the applicant consents to the making of enquiries.

(6) The applicant shall have net worth of at least £5 million.

(7) A standing committee, representative of the Departments of Enterprise, Trade and Employment, Finance and Justice, Equality and Law Reform, Enterprise Ireland and IDA Ireland with an independent chairperson, appointed by the Government, who has business experience will consider what specific firms should be recipients of investment under the scheme in accordance with criteria set down by Government. The projects to be considered by the committee as possible recipients of investment must also be approved by the Government Department or State development agency - IDA Ireland, Enterprise Ireland, Shannon Development or Udaras na Gaeltachta - with competence in their particular area. Typically, projects supported under the scheme will be in manufacturing or internationally traded services activities deemed eligible for support by the development agencies. In recommending what projects are to be supported, the standing committee shall act independently. It shall report annually to the the Oireachtas Committee which oversees the affairs of the Department of Justice, Equality and Law Reform and this report shall be published. The standing committee's report shall include inter alia full information on numbers of jobs created and maintained and on the application of the non-refundable contributions for research, which should be administered by the National Research Support Fund Board. The activities of the standing committee will not impinge on the functions of the Minister for Justice, Equality and Law Reform whose decision it will be whether or not to naturalise a particular individual

under the Scheme. The standing committee will concern itself with the firms which are to be regarded as suitable recipients for investment while the Minister will, as he does in relation to any applicant, decide if a particular person is suitable for naturalisation.

(8) The standing committee will be serviced by a unit of the Department of Enterprise, Trade and Employment under the supervision of an Assistant Secretary. The unit shall also be responsible for marketing the Scheme, compliance, control and monitoring the operation of the Scheme. This monitoring will involve close liaison and consultation with the State development agency in whose remit the company comes.

(9) The Minister undertakes to give favourable consideration to any application for naturalisation by the spouse of the investor and to any application on behalf of minor children of the investor.

(10) The fact that an applicant for naturalisation applied under this scheme shall be treated as confidential by the Minister.

(11) Breaches of the above rules shall attract appropriate penalties including the revocation of the certificate of naturalisation.

6.2 **Commentary on the proposed rules.**

(The paragraph numbers which follow correspond to the number of the rule to which the paragraph refers.)

(2) This rule is designed to ensure that the investor, in return for naturalisation, shares in the risk of the recipient company. For this reason, the shares have to be either ordinary or noncumulative preference shares. While the preference shares may be redeemable after five years has passed, there can be no requirement on the company or any of its directors to set aside funds to ensure that redemption will actually take place. Among the defects of the operation of the former scheme were, firstly, that in addition to some investments taking the form of loans (which the Group would not support) investors often required the creation of a sinking fund and bank guarantees in relation to repayment and redemption and, secondly, preference shares could be cumulative.

(3) While the investment is to be for a minimum of five years from the date of application for a certificate of naturalisation, that is, a

minimum of seven years in all, the Minister can consent, if and on whatever conditions he/she sees fit, to its disposal. For example, new developments might make it desirable from the company's point of view to terminate the investment.

(4) Another defect with the old scheme and its administration was that fully adequate character checks did not take place. It is suggested that the new Rules should give the Minister a wide discretion in investigating the applicant's background. For example, in addition to a police certificate of character it would be prudent to make inquiries via the Garda Siochana perhaps through Interpol and, possibly, to get a report from the Irish diplomatic mission in the applicant's country of origin or residence. Evidence as to character is not confined to convictions and penalties on the applicant's personal record but can include those of associated companies and organisations and, indeed, personal associates. It would also take account of penalties of a non-criminal nature such as those imposed by regulatory bodies. The fact that the investment will have taken place at least two years before naturalisation will facilitate the making of character checks without undue time pressure.

(5) A further defect of the old Terms of Reference was that nothing was said about the source of the funds invested. Clearly, an investment under the scheme should not facilitate money laundering and there is a need for a provision on this.

(6) Some of the other countries on which the Group has information (see Appendix D) prescribe that an applicant for business residency must own the funds to be invested, that is they must not be the proceeds of borrowings. An appropriate provision for any new investment-linked naturalisation scheme would be a requirement for a minimum net worth of £5 million. In particular, this would ensure that the investor is under no pressure from creditors in regard to the funds invested and that he/she is a person of very substantial means.

(7), (8) In the event of institutional change occurring, the functions of the various bodies referred to in these paragraphs should be discharged by the relevant successor bodies.

(9) Under the now-abolished scheme, it was the practice to naturalise the spouse and minor children of the investor usually after a minimum period of a year had passed since the investment. In doing this, the Minister was exercising powers given to him/her by sections 16(c) and (d) of the Irish Nationality and Citizenship Act, 1956 as inserted by the Irish Nationality and Citizenship Act, 1986. The Irish Nationality and Citizenship Bill, 1999, currently before the Oireachtas, will delete section 16(d) as part of a more general reform of the law on acquisition of citizenship based on marriage. Accordingly, the legislation which would be needed to introduce a new investment-

based scheme - discussed later in this section - would need to make specific provision for the position of spouses and minor children of investors.

(10) In order to have any impact on investment, it appears to the Group that details of investors must be kept confidential although, in practice, it is likely that such details will in some cases become known publicly. While there may be concern that this makes for a lack of transparency, the new safeguards which would surround the scheme would serve to reduce public anxiety about its operation.

6.3 **A legal basis for the scheme.**

The Group considers that it could be legally questionable to use the Irish associations provision in section 16(a) of the Irish Nationality and Citizenship Act as the basis for the above Scheme because it is not clear that the link formed with the country by a person who complies with the above rules is sufficient to constitute Irish associations within the meaning of that section. The Group notes that, as far back as 1994, the Government decided that the Scheme operating then should be put on a statutory footing. Additional advantages of putting any new scheme on a statutory footing are:

(a) It would have the merit of giving a legal rather than an administrative basis to the above rules and would thereby provide public reassurance in an area which has proved to be very sensitive in the past.

(b) It would provide democratic sanction for the scheme which would not depend merely on the interpretation by a Minister of the phrase "Irish associations".

(c) It would afford the opportunity to provide for penalties against naturalised investors who do not continue to fulfil their undertakings and the conditions of the scheme. Operating the scheme administratively has the disadvantage that the Act as it stands provides no power, generally speaking, to the Minister to take any action in the event of an investor, for example, selling his house before the five year period is up or not residing here for the minimum number of days.

(d) A legislative basis would provide for the role of the relevant Oireachtas Committee and would serve to guarantee that the standing committee would operate independently of any improper influence.

7. Assessment of the question of reintroducing an investment based naturalisation scheme.

7.1 In this section we give our assessment of whether an investment linked scheme based on the rules in the previous section should be introduced. The Group does not have a unanimous view on this but does agree that a scheme should not be introduced at present.

7.2 While many people, including some Group members, will object in principle to giving citizenship in return for investment in any circumstances, the Group is satisfied that the scheme which was abolished in 1998 created or preserved Irish jobs on a scale which, while small in relation to overall State support in this regard, is

nonetheless significant. At the same time, it must be acknowledged that the scheme sometimes operated in a haphazard and unacceptable fashion.

7.3 It is also true that a scheme such as the one now abolished is very unusual internationally among countries comparable to Ireland. Some supporters of the scheme who made submissions to the Group claim the opposite but what they are generally referring to seems to be business residency schemes which grant a right of residence to business people or investors which can lead to naturalisation in the normal way. In the case of some countries, the residency requirement may not be very onerous in that it could be fulfilled by residing in the country for part of the year. At the same time, the Group regards such schemes as distinct from and appealing to different sets of persons from investment-based naturalisation where applicants do not want to reside in the country of their new citizenship for anything more than brief periods and then only to comply with the conditions of the scheme. (For details see Appendix D.) Ireland also has a business residency scheme and the Group is informed by the Department of Justice, Equality and Law Reform that the conditions on which it is based are to be reviewed shortly. In the light of all this, the Group decided not to concern itself further with business residency.

7.4 One submission suggested that, while some countries operate a coherent programme of investment-based naturalisation, others do not have any published programme but will negotiate with applicants on a special case by case basis. The latter approach does not commend itself to the Group and, indeed, would even represent a regression from the scheme which previously operated here.

7.5 In assessing the desirability or otherwise of introducing a new investment-based scheme, it is relevant to note at the outset that the economy of Ireland is growing at a rate unprecedented by historical standards. One very positive effect has been a significant change in the conditions which led to the introduction of the Investment-Based Scheme in the 1980s. Unemployment has been sharply reduced and, indeed, there are labour shortages in some areas although the challenge of meeting the needs of the long-term unemployed and of a number of geographical unemployment “black spots” remains. The rate of business failures has probably declined although some companies continue to face difficulties in the traditional manufacturing areas, notably clothing and textiles. In a mixed economy, a certain level of business failure is inevitable. Indeed, it could be argued that business failures free up people to fill job vacancies in successful enterprises. Finally, the venture capital market in Ireland has changed significantly over recent years as a result of the emergence of a series of new venture capital funds partly sponsored by Enterprise Ireland. Thus, the availability of funds for high risk start-up companies has improved although some difficulties remain.

7.6 Given the current economic position and outlook, the Group has reached the view that it is inappropriate (and unnecessary) to reintroduce an investment-based scheme at the present time.

7.7 A majority of the Group believe that the Government should retain the option, in the event of a changed economic or employment situation, of introducing an investment-based naturalisation scheme on a statutory basis and on the lines set out in section 6 above.

7.8 A minority of the Group is opposed to investment based naturalisation in principle broadly for the reasons set out at section 5 above and because they believe that such a scheme would tend to differentiate us internationally from other countries with developed economies and political/legal systems which do not generally operate such schemes.

LIST OF APPENDICES.

- A. Statement of Intent.
- B. Sections 15 and 16 of the Irish Nationality and Citizenship Act 1956 as amended.
- C. Terms of Reference of the Advisory Group.
- D. A brief summary of information on business residency and investment based naturalisation in other countries.

APPENDIX A

STATEMENT OF INTENT

(in relation to the exercise by the Minister for Justice of his discretion under section 16 of the Irish Nationality and Citizenship Act, 1956, as amended, to waive the provisions of section 15(c) of the Act in the case of persons establishing certain businesses in the State).

The Minister will accept as fulfilling the requirements of "Irish associations" in section 16(a) the guidelines set out in (a), (b) and (c) hereunder so as to grant an application which does not comply with the condition at 15(c) of the Act, but only that condition.

- (a) The applicant will have acquired a residence in the State, will have been resident in the State for two years and will have spend a reasonable amount of time here over the two years.
- (b) The Minister will be satisfied, on the advice of a Minister of the Government, that the applicant has established a manufacturing or international services or other acceptable wealth and job creating project here that is viable and involves a substantial investment by the applicant.
- (c) All other requirements of the Act have been complied with. (Copies of sections 15 and 16 of the Act are attached).

Notes:

- (1) "Residence" for the purpose of paragraph (a) involves the establishment here of a residence consistent with the circumstances of the applicant and any of his family allowed to reside here by law and in which he (they) have their home. The question as to whether any accommodation is or is not a "residence" will be decided on the criteria applicable to the grant of naturalisation generally and the decision of the Minister thereon shall be final.
- (2) For the purposes of "a reasonable amount of time here over the two years" in (a) the minimum number of days acceptable would be 60.
- (3) The "project" referred to at (b) will be one resulting from the applicant's investment and which would not otherwise have occurred.
- (4) The application may include a spouse and children under 18 years of age.

APPENDIX B

Sections 15 and 16 of the Irish Nationality and Citizenship Act, 1956, as amended by the Irish Nationality and Citizenship Act, 1986.

4. - The following section is hereby substituted for
section 15 of the Act of 1956:

Conditions for issue of certificate

'15 - (1) Upon receipt of an application for a certificate of naturalisation, the Minister may, in his absolute discretion, grant the application, if satisfied that the applicant -

(a) is of full age;
(b) is of good character;
(c) has had a period of one year's continuous residence in the State immediately before the date of the application and, during the eight years immediately preceding that period has had a total residence in the State amounting to four years;

(d) intends in good faith to continue to reside in the State after naturalisation; and

(e) has made, either before a Justice of the District Court in open court or in such manner as the Minister, for special reasons, allows, a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.

(2) The conditions specified in paragraphs (a) to (e) of subsection (1) are referred to in this Act as conditions for naturalisation."

Power to dispense with conditions of naturalisation in certain cases.

5. - The following section is hereby substituted for section 16 of the Act of 1956:

"16.- The Minister may, in his absolute discretion, grant an application for a certificate of naturalisation in the following cases, although the conditions for naturalisation (or any of them) are not complied with:

(a) where the applicant is of Irish

descent or Irish associations;

(b) where the applicant is a parent or guardian acting on behalf of a minor of Irish descent or Irish association;

(c) where the applicant is a naturalised Irish citizen acting on behalf of a minor child of the applicant;

(d) where the applicant is married to a naturalised Irish citizen;

(e) where the applicant is married to a person who is an Irish citizen (otherwise than by naturalisation);

(f) where the applicant is or has been resident abroad in the public service;

(g) where the applicant is a person who is a refugee within the meaning of the United Nations Convention relating to the Status of Refugees of the 28th day of July, 1951 and the Protocol Relating to the Status of Refugees of the 31st day of January, 1967, or is a Stateless person within the meaning of the United Nations Convention relating to the Status of Stateless Persons of the 28th day of September, 1954.”

APPENDIX C

TERMS OF REFERENCE OF ADVISORY GROUP ON INVESTMENT-LINKED NATURALISATION

1. To consider applications for naturalisation based on investment in the State received by the Minister for Justice and referred to the Group and to make recommendations to the Minister based on the Group's assessment of the job-creating or job-maintenance capacity of the investment.
2. The Group will examine each application for naturalisation based on investment, with the assistance of evaluation/advice from relevant agencies where necessary and, in making their recommendations, will apply the following criteria:
 - (a) Substantial residence must be purchased and retained in ownership for a period of at least 5 years with an undertaking to reside in the State for a minimum of 60 days in the 2 years following naturalisation.
 - (b) The level of investment must involve a net contribution of at least £1 million per applicant.
 - (c) Where the investment is in the form of a loan it shall be for a duration of at least 7 years at an interest rate not greater than 1 per cent below the representative Government bond yield on the secondary market, or not greater than 1 per cent below DIBOR, whichever is lower. The loan shall be made by the applicant direct to the firm concerned, without involvement by any intermediary.

The loan arrangement shall be transparent and open to scrutiny and shall be such as to prevent the loan being factored or sold on. The loan shall not be secured by the assets of the company in which the investment is to be made.

(d) As ordinarily naturalisation would be for life, the duration of the investment should be for a significant period; at the very least 5 years.

(e) The number of jobs created or maintained must be readily quantifiable and arise from the investment only.

(f) Audited and certified confirmation of the investment to be available to the Group from an established auditing firm of accountants to the effect that the investment has taken place in accordance with the rules of the scheme for naturalisation.

(g) The investment will be monitored by Forfás to ensure that the conditions of the investment are being maintained and, in the event that they are not, will inform the Group who, in turn, will inform the Minister for Justice with a view to revocation of citizenship.

(h) Police certificate of character must be provided by authorities in country of origin (and, if required, from the Police in any country where the applicant has resided or carried on business or maintained substantial investments) together with express permission to the authorities in Ireland to enquire behind it.

(i) Annual certification by an established auditing firm of accountants to Forfás that the investment is being maintained for the appropriate period.

APPENDIX D

Information on business-linked residency and naturalisation in other States.

This note summarises the position in the countries in respect of which we have detailed information on business residency, namely Australia, Canada, the UK, the US, New Zealand and EU States.

Australia

The basic distinction in the Australian system is between investors and business owners. Both categories need to show a record of past achievement in these broad fields. There is no concession on subsequent naturalisation.

Investors must already be the owners of assets such as interests in a business, loan capital, stocks and bonds or real estate and must be actively involved in decisions concerning the evaluation, selection, investment and sale of these assets. In Australia, the investor puts his/her money into a designated fixed term government security for a period of three years. The amount can range from A\$750,000 to A\$2m. maximum, that is about £360,000 to £970,000.

For the business owners category, residence permission is based on a points system covering turnover of the person's existing business, labour costs and total assets as well as the person's language ability and age. Points are also awarded for the net assets available to a person for transfer to Australia within two years: a minimum of A\$500,000 (about £240,000) is required to earn any points under this heading although one could probably qualify with less than this if high points are scored under other headings.

Canada

Again, there is no concession on naturalisation in the Canadian scheme.

There are three categories: investors, entrepreneurs and the self-employed.

The investor category is intended for successful business persons who wish to immigrate to Canada and invest in an enterprise but who may not wish to actually participate in its management. The investment, which is subject to a five year lock in period, may be in a commercial venture, in a privately administered investment syndicate or in a government administered venture capital fund. Persons must have net worth accumulated by their own endeavours (i.e. earned or the proceeds of investments, not gifts) of the equivalent of £250,000 approx. The amount of the investment is in the range £125,000 to £175,000 approx.. There is another option of investing £250,000 in the case of persons with net worth of about £350,000 and this comes with a

third party guarantee of the return of all funds at the end of the five year period. The lesser investments carry no guarantee.

Entrepreneurs set up a business venture in Canada which must employ at least one Canadian.

There is no minimum net worth or investment: the test is that it must bring significant economic benefits to Canada. The qualities of the applicant are important and selection is by a points system based on factors like the applicant's business record, the amount of capital to be invested, the viability of the business and the contribution it can make to the economy. In contrast to an investor, an entrepreneur must actively participate in the management of the business.

The self-employed do not have to provide employment for others. Their business must, however, contribute significantly to Canada's economy or cultural life. Persons must be in occupations that are not already in over-supply.

USA

Persons can obtain permanent residency (Green Card) by investing \$1m (about £750,000) to create a new business with at least 10 full time jobs. The Immigration and Naturalisation Service (INS) has the option of lowering the investment limit to \$500,000 (£370,000) in "targeted employment areas" or raising it to \$3m (£2.2m) in high employment areas.

Following five years continuous permanent residency, an application for naturalisation can be made.

New Zealand

There are a number of categories in the business immigration regulations of New Zealand.

Firstly, there is the Investor Category under which applicants are assessed by a points system under which points are awarded for age, business experience and investment funds. The minimum investment capital is \$1m.

A second category is the Long Term Business Visa. The purpose of this is to cater for potential migrants interested in applying for residence under the Entrepreneur Category (see below) and those interested in establishing a business in New Zealand who do not wish to live permanently in the country. An applicant for a Long Term Business Visa must have a satisfactory business proposal plan and, in addition to investment capital, have sufficient funds for their maintenance and accommodation and that of their family. They must also fulfil health and character requirements and satisfy the Immigration Service that they are genuinely interested in establishing a business in New Zealand.

Thirdly, the Entrepreneur Category provides for the grant of residence to people who have established a business in New Zealand and have run it successfully for a period of two years.

The grant of New Zealand citizenship to investors or persons coming within the Long Term Business Visa or Entrepreneur Categories is on the same basis as for other persons.

United Kingdom

There is no concession on naturalisation.

Similarly to the above countries, there are different categories, in this case two, investors and business.

Investors must have £1m.stg. of their own and under their control. In the UK, £750,000stg. must be invested in Government bonds, share or loan capital (but not in companies engaged in property investment). The investor must intend to make the UK his/her main home. The period of stay is initially one year, followed by an extension of stay for a further three, followed by indefinite leave to remain. This facilitates monitoring the fulfilment of undertakings by the investor.

A business entrant must have £200,000stg. of his own, under his control and disposable in the UK. There must be a genuine need for his investment in the UK. He has to create two full time jobs. The position on initial leave, extension of stay and indefinite leave to remain are the same as for investors.

Austria

There is a provision in Austrian citizenship law that the requirements for naturalisation (10 years residency, self-sufficiency and a renunciation of a pre-existing citizenship) will not apply if the Federal Government confirms that the grant of citizenship is in the interest of the Republic on the grounds of the already provided, or still expected, extraordinary services, particularly in the scientific, economic, artistic or sporting areas. The bulk of the 100 to 120 applications that are processed each year fall into the economic category.

The Interior Ministry has the final say on whether or not to grant citizenship. Failure to meet any commitments made to acquire citizenship can result in its being withdrawn.

France

Under the Civil Code, the five years residence requirement for naturalisation does not have to be fulfilled if the applicant can show exceptional services rendered to France. It is understood that a substantial investment would not, in itself, be construed as an exceptional service but it could be taken into consideration as an element of the application.

Other EU Countries

The Review Group is not aware of any scheme on the lines of investment based naturalisation in other EU States though, in at least some cases, there are business residency schemes which do not result in the waiving of any of the requirements for naturalisation.